

**BEFORE THE TENNESSEE REGULATORY AUTHORITY AT
NASHVILLE, TENNESSEE**

July 15, 2005

IN RE:

**JOINT PETITION FOR APPROVAL TO TRANSFER
AUTHORITY TO PROVIDE TELECOMMUNICATIONS
SERVICES AND TO SELL ASSETS OF KMC TELECOM
III LLC AND CENTURYTEL ACQUISITION, LLC**

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**DOCKET NO.
05-00092**

ORDER APPROVING TRANSFER OF AUTHORITY

This matter came before Chairman Pat Miller, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this Docket, at a regularly scheduled Authority Conference held on June 13, 2005 for consideration of the *Joint Request for Approval to Transfer Authority to Provide Telecommunication Services and to Sell Assets* (the "*Joint Request*") filed by KMC Telecom III LLC ("KMC III") and CenturyTel Acquisition LLC ("CenturyTel Acquisition") (together with KMC III "the Petitioners") for TRA approval of a transfer of authority to provide telecommunications services in Tennessee and to sell assets related to KMC III's competitive local exchange telecommunications service to CenturyTel Acquisition

The Joint Request

KMC III is a limited liability company organized under the laws of Delaware and a competitive local exchange carrier providing a full range of telecommunications information services to carriers and enterprise customers in Tennessee. KMC III was granted a Certificate of Public Convenience and Necessity ("CCN") to provide interexchange service in Tennessee on September 16, 1999, in Docket No. 99-00211

CenturyTel Acquisition is a wholly-owned subsidiary of CenturyTel, Inc. ("CenturyTel"), a Louisiana corporation. CenturyTel Acquisition will do business in Tennessee under the names "CenturyTel Solutions" and "LightCore, a CenturyTel Company." CenturyTel Acquisition does not currently possess a CCN to provide services in Tennessee.

The *Joint Request* was filed on March 30, 2005. The Authority staff issued a Data Request on April 6, 2005, to which Petitioners responded in a timely manner. On May 5, 2005, BellSouth Telecommunications, Inc. ("BellSouth") filed the *Petition of BellSouth Telecommunications, Inc. for Leave to Intervene* ("Petition to Intervene"). The *Petition to Intervene* stated that matters affecting the legal interests of BellSouth may be determined in the proceedings relating to this Docket and BellSouth's interests would not be adequately represented unless the Authority allowed BellSouth to intervene. After an exchange of filings on the part of KMC, CenturyTel Acquisition and BellSouth¹ with regard to the *Petition to Intervene*, BellSouth filed a voluntary notice of withdrawal, with prejudice, of BellSouth's previously filed *Petition to Intervene*².

In the *Joint Request*, filed on March 30, 2005, the Petitioners request approval of a transfer of authority to provide telecommunications services in Tennessee and to sell assets related to KMC III's competitive local exchange telecommunications service to CenturyTel Acquisition. The *Joint Request* states that CenturyTel, through its other subsidiaries, has a history of providing high quality telecommunications services in Tennessee, and will maintain or improve the service customers currently receive from KMC III. Further, the Petitioners assert that

¹ On May 12, 2005 KMC III filed the *Response of KMC in Opposition to BellSouth's Petition for Leave to Intervene*. Subsequently, on May 13, 2005, CenturyTel filed a letter with the Authority stating it concurred with the *Response of KMC in Opposition to BellSouth's Petition for Leave to Intervene*. A letter from BellSouth addressing the *Response of KMC* was also filed on May 13, 2005. Thereafter, on May 16, 2005, KMC III filed the *Response of KMC to BellSouth's Letter*.

² BellSouth originally filed a document entitled *Motion to Dismiss with Prejudice BellSouth Telecommunications, Inc. Petition for Leave to Intervene* on May 27, 2005. On May 31, 2005, BellSouth filed a letter with the Authority clarifying the May 27, 2005 filing by stating that the filing was intended to be a voluntary notice of withdrawal, with prejudice, of BellSouth's *Petition to Intervene*.

CenturyTel and CenturyTel Acquisition have the financial ability to operate and maintain the current telecommunications system and to make upgrades, as needed.

According to the *Joint Request*, the proposed transactions will cause no interruption in service to customers and no existing service would be discontinued, reduced or impaired. Additionally, the *Joint Request* asserts that the transaction will not affect rates for any services being provided to customers in Tennessee. The Petitioners state that the proposed transaction will serve the public interest, convenience and necessity in Tennessee by giving customers served by KMC's metropolitan area network facilities access to the complementary, extensive regional long-haul fiber optic network operated by CenturyTel's affiliate, Lightcore. The Petitioners request a waiver of the Authority's rules governing changes to a customer's telecommunications carriers. However, the *Joint Request* states that, if approved, KMC's customers will receive notice of the transaction required under their service contracts.

June 13, 2005 Authority Conference

The transfer at issue in this Docket is governed by Tenn Code Ann. § 65-4-113 (2004). That provision requires a public utility to obtain TRA approval to transfer its CCN. Tenn. Code Ann. § 65-4-113(a) (2004) reads as follows:

No public utility, as defined in § 65-4-101, shall transfer all or any part of its authority to provide utility services, derived from its certificate of public convenience and necessity issued by the authority, to any individual, partnership, corporation or other entity without first obtaining the approval of the authority.

Tenn. Code Ann. § 65-4-113(b) (2004) provides the standards by which the TRA shall consider an application for transfer of authority, in pertinent part, as follows:

Upon petition for approval of the transfer of authority to provide utility services, the authority shall take into consideration all relevant factors, including, but not limited to, the suitability, the financial responsibility, and capability of the proposed transferee to perform efficiently the utility services to be transferred and the benefit to the consuming public to be gained from the transfer. . . .

Further, when a customer base is transferred from one telecommunications service provider to another, TRA Rule 1220-4-2-.56(2)(d) provides that sufficient notice has been given to affected customers when the following criteria have been met:

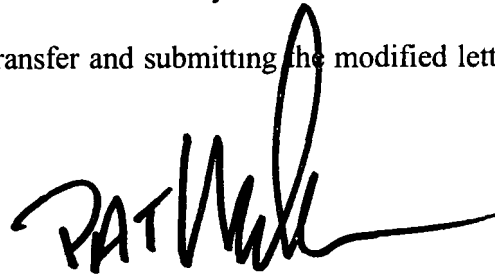
2. A notification letter, pre-approved by the Authority, shall be sent by the current provider of telecommunications service to its customers describing the customer transfer and explaining that the customers' local or long distance service will be transferred to the acquiring telecommunications service provider by a date specified in the notification letter unless the customer selects another telecommunications service provider. The notification letter shall be mailed by U.S. First Class Postage, with the logo or name of the current provider displayed on both the letterhead and the exterior envelope, no less than thirty (30) days prior to the actual customer transfer. For good cause shown, the Authority may waive any requirement of 1220-4-2-.56(2)(d)(2) or order any requirement thereof to be fulfilled by the acquiring provider. Good cause includes, among other things, evidence that the current provider is no longer providing service in Tennessee.
3. The acquiring telecommunications service provider agrees to pay any fees charged to the customer associated with changing service to the acquiring telecommunications service provider. The notification letter required in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.
4. The acquiring telecommunications service provider agrees to provide to the affected customers a thirty (30) day written notice of any rate increase that may affect their service up to ninety (90) days from the date of the transfer of customers. The notification letter mentioned in 1220-4-2-.56(2)(d)(2) shall inform the customer of this provision.

At the regularly scheduled June 13, 2005 Authority Conference, the panel voted unanimously to approve the *Joint Request* pursuant to a finding of compliance with the requirements of Tenn. Code Ann. § 65-4-113 (2004) with the condition that the Petitioners modify the customer notification letter in accordance with TRA Rule 1220-4-2-.56(2)(d)(4) and submit the modified letter to the TRA for Authority approval prior to mailing. Specifically, the Petitioners are to modify the letter so that it contains a provision informing the customers that the new provider will issue a 30-day notice of any rate increase occurring within 90 days following this transfer.

IT IS THEREFORE ORDERED THAT:

1. *Joint Request for Approval to Transfer Authority to Provide Telecommunication Services and to Sell Assets* is approved contingent on the Petitioners modifying the customer notification letter in accordance with TRA Rule 1220-4-2-.56(2)(d)(4) and submitting the modified letter to the TRA for Authority approval before mailing.

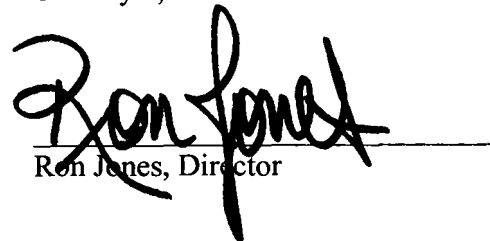
2. The customer notification letter submitted by Petitioners is approved contingent on the Petitioners modifying the letter to inform customers, in accordance with TRA Rule 1220-4-2-.56(2)(d)(4), that they will receive 30 days written notice of any rate increase that may affect their service up to 90 days from the date of the transfer and submitting the modified letter to the TRA for Authority approval before mailing.



Pat Miller, Chairman



Sara Kyle, Director



Ron Jones, Director